IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2811 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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LAXMI CINEMAGIC

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 2811 of 2001

MR AJAY R MEHTA for Petitioner

MR HC PATEL, AGP for Respondent No. 1-2

CORAM : MR.JUSTICE K.M.MEHTA

Date of decision: 23/07/2001

ORAL JUDGEMENT

1. Rule. Service of rule is waived by Mr.H.C.Patel, learned AGP on behalf of the respondents.

2. Laxmi Cinemagic Navsari, petitioner has filed this petition for writ of mandamus or any other writ,

order or direction quashing and setting aside the order dated 16th April, 2001, suspending the petitioner's licence under Rule 131 of the Bombay Cinema Rules, 1954 read with Section 8-A of the Bombay Cinema (Regulation) Act, 1953 for non-payment of entertainment tax dues. This order has been passed by Licensing Officer & District Magistrate, Navsari.

3. When the matter was placed for hearing before this Court, on 20.4.2001 this Court (Coram: Kundan Singh, J.) pleased to pass the following order:

> "Issue notice returnable on 30-4-2001. The operation of the impugned order dated 16-4-2001 shall remain stayed till then, subject to the condition that the petitioner shall deposit Rs.1,00,000/- (Rupees One Lac only) towards entertainment tax with the respondent authority concerned, within a week from today. D.S. is permitted."

4. The petitioner theatre is liable to pay the following amounts:

27.10.2000 to 16.11.2000	Rs.2,55,420/-
01.12.2000 to 07.12.2000	Rs. 44,164/-
15.12.2000 to 14.01.2000	Rs.1,14,376/-
01.03.2001 to 14.03.2001	Rs. 39,587/-
Total	Rs.4,53,547/-

4.1 Against that the authority has issued again notice dated 3rd July, 2001, for the interest amount of Rs.2,02,270/-. If amount of Rs.4,53,547/- + Rs.2,02,270/- the total comes to Rs.6,55,817/-. As against that learned advocate for the petitioner states that petitioner has paid Rs.1,00,000/- (Rupees One Lac) as per the interim order of this Court. So the following amount remains due and payable namely Rs.5,55,817/- by petitioner to the said authority qua entertainment tax.

4.1(A) The petitioner has already paid Rs.1,00,000/(Rupees One Lac only). The learned counsel for the petitioner states that the petitioner is prepared to pay the balance amounts within a reasonable period, if instalments are given.

5. Having heard Mr.A.R.Mehta, learned counsel for the petitioner and Mr.H.C.Patel, learned AGP for the

respondents. It appears to the Court that in the facts and circumstances of the case, interests of justice would be served if following directions are given. This Court is therefore not adjudicating the matter on the merits of the matter and the Court feels that interest of justice would be served and interest of revenue also preserve and protected if following directions are given:

(i) The petitioner shall file an undertaking before this Court stating that the petitioner shall pay to the Collector, Navsari, following amount and observe the conditions stated therein

(a) the balance amount of entertainment tax with interest and penalty as indicated above as per the following instalments:-

The petitioner shall pay the Collector, Navsari an amount of Rs.55,817/- by 31st July, 2001.

(b) Out of remaining Rs.5,00,000/- the petitioner will pay Rs.1,00,000/(Rupees One Lac only) payable by 31st August, 2001, Rs.1,00,000/- (Rupees One Lac only) payable by 30th September, 2001, Rs.1,00,000/- (Rupees One Lac) payable by 31st October,2001, Rs.1,00,000/- (Rupees One Lac) payable by 30th November, 2001 and Rs.1,00,000/- (Rupees One Lac only) payable by 31st December, 2001.

(c) The petitioner Laxmi Cinemagic will also furnish necessary security deposit as per the satisfaction of the licencing authority on or before 3rd August, 2001.

(d) The authority will also adjudicate and determine the amount of compound tax for which the petitioner file necessary application in this behalf.

(e) that the petitioner shall pay to the Collector, Navsari the current Entertainment Tax regularly once the petitioner permitted to restart his cinema hall.

(f) that the petitioner shall not sell, lease or in any other matter transfer his interests in the cinema hall, compound

and machineries till all the arrears are cleared.

(g) that the petitioner shall withdraw all other proceedings which he has filed in so far his cinema is concerned.

(ii) Upon the petitioner filing an undertaking as aforesaid and upon the petitioner paying an amount as aforesaid, respondent No.2 shall keep the impugned order of suspension dated 16.4.2001 in abeyance and shall permit the petitioner to run the cinema hall subject to compliance with the other terms and conditions of the licence. A copy of the undertaking shall be served on the learned AGP as well as the Collector, Navsari.

(iii) Once the aforesaid amounts are paid as per the aforesaid time schedule, the order of suspension shall be revoked and treated as inoperative and non-existent, but in case the petitioner fails to comply with the aforesaid undertaking, these directions will cease to operate and it will be open to the respondent to pass appropriate orders in accordance with law.

6. It is directed accordingly and the petition is disposed of in terms of the aforesaid directions. Rule is made absolute to the aforesaid extent with no order as to costs.

(K.M. Mehta, J.)

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